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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

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13
14 UNITED STATES OF AMERICA,)
15)
16 Plaintiff,)
17)
18 v.) 2:04-cr-308-RCJ-LRL
19)
20 RANDY VALMER,)
21)
22 Defendant.)
23 _____)
24

25 **JOINT STIPULATION FOR A SENTENCE REDUCTION**
26 **PURSUANT TO 18 U.S.C. § 3582(c)(2)**
27

28 The United States of America, by Assistant United States Attorney
29 Elizabeth O. White, and Defendant Randy Valmer, by Assistant Federal
30 Public Defender Nisha Brooks-Whittington, submit the following Joint
31 Stipulation for Discretionary Relief pursuant to 18 U.S.C. § 3582(c)(2).

32 The parties agree and stipulate to the following:

1 **A. Material Facts in Support of Joint Stipulation**

2 Defendant was previously convicted and sentenced for offenses
3 involving controlled substances.

4 On January 9, 2006, this Court sentenced Defendant to 240 months'
5 imprisonment for conspiracy to distribute a controlled substance in
6 violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(viii), and 846; and six counts of
7 distribution of a controlled substance in violation of 21 U.S.C. §§ 841(a)(1)
8 and (b)(1)(B)(viii). This Court previously found: (a) that Defendant's total
9 offense level was 34; (2) that Defendant's criminal history category was V;
10 and (c) that the guidelines sentencing range was 235-293 months'
11 imprisonment. This Court imposed sentence slightly higher than the low
12 end of the advisory guidelines range.

13 Following imposition of sentence, the U.S. Sentencing Commission
14 promulgated Amendment 782, which took effect on November 1, 2014.
15 Amendment 782 (a) reduces the guidelines offense levels across all drug
16 types, and (b) with certain limitations, applies retroactively to defendants
17 sentenced prior to November 1, 2014.

18 Defendant seeks a discretionary reduction in sentence pursuant to
19 Amendment 782, and in accordance with 18 U.S.C. § 3582(c)(2) which

1 (among other things) provides that, in certain circumstances, a sentencing
2 court “may reduce the term of imprisonment.” Pursuant to Amendment
3 788, sentencing reductions under Amendment 782 may not result in a
4 defendant’s release from BOP custody prior to November 1, 2015.

5 **B. Terms of Sentence Reduction Under 18 U.S.C. § 3582(c)(2)**

6 Defendant is eligible for a discretionary reduction to the guideline
7 imprisonment range, and the parties agree that a reduction is appropriate.
8 Pursuant to 18 U.S.C. § 3582(c)(2) and Guidelines Amendment 782: (a)
9 Defendant’s revised total offense level is 32; (b) Defendant’s criminal
10 history category remains V; and (c), the revised advisory guidelines
11 sentence is 188-235 months’ imprisonment. Based on the foregoing, the
12 parties jointly recommend that Defendant’s sentence be reduced to 193
13 months’ imprisonment, a sentence slightly higher than the low end of the
14 revised guidelines range. The parties understand and stipulate that, if this
15 reduced sentence would result in a release date prior to November 1, 2015,
16 then the defendant will be ordered released on November 1, 2015.

17 **C. Waivers; Review and Consent of Defendant**

18 Defendant knowingly and voluntarily waives any right to appeal any
19 aspect of the revised sentence, *except that*, if the revised sentence exceeds

1 the recommended term of 193 months, or November 1, 2015, whichever is
2 later, Defendant may appeal that aspect of the revised sentence. *See*
3 Declaration, attached as Exhibit 1.

4 Defendant (a) waives any right he may have to a hearing on his
5 motion under 18 U.S.C. § 3582(c)(2); (b) waives any right he may have to
6 attend such a hearing; (c) has reviewed this stipulation with defense
7 counsel; and (d) agrees with and consents to this stipulation. *See*
8 Declaration, attached as Exhibit 1.

9 **D. Acknowledgment of Reserved Rights**

10 Notwithstanding this Joint Stipulation, the United States expressly
11 preserves and does not waive its contentions that a defendant seeking
12 relief under 18 U.S.C. § 3582(c)(2) has no constitutional or statutory right
13 to counsel, to a hearing on the motion, or to be present at any hearing on
14 the motion.

15 **E. Conclusion**

16 Based on the above, the parties respectfully request that the Court
17 enter an order granting Defendant a sentence reduction pursuant to 18
18 U.S.C. § 3582(c)(2), and reducing his sentence to 193 months'

imprisonment; with all other provisions of the judgment dated January 18, 2006, to remain in effect; and with an “effective date” of November 1, 2015.¹

Respectfully submitted this 27th day of August, 2015.

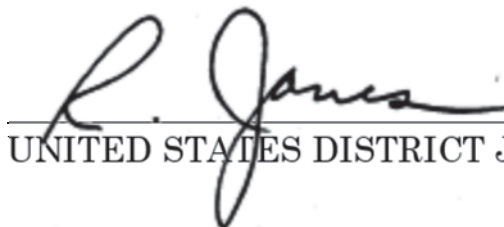
RENE L. VALLADARES
Federal Public Defender

DANIEL G. BOGDEN
United States Attorney

By: s/ Nisha Brooks-Whittington
Nisha Brooks-Whittington
Asst. Federal Public Defender
Counsel for Defendant
Randy Valmer

By: s/ Elizabeth O. White
Elizabeth O. White
Appellate Chief and
Assistant United States Attorney

IT IS SO ORDERED this 3rd day of September, 2015.


UNITED STATES DISTRICT JUDGE

¹ The parties make this joint recommendation after having reviewed the Defendant’s progress reports from the Bureau of Prisons, along with other relevant records. If the Court is inclined to deny the jointly recommended sentence reduction, the parties respectfully requests an opportunity to provide those records for the Court’s review, and make additional argument in support of the joint stipulation.